

## § 54.7

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establishment for the purpose of performing their functions under the regulations. The application shall state:

(1) The name and address of the establishment at which service is desired; (2) the name and post office address of the applicant; (3) the financial interest of the applicant in the products, except where application is made by an official of a Government agency in his official capacity; and (4) the signature of the applicant (or the signature and title of his representative). The application shall indicate the legal status of the applicant as an individual, partnership, corporation, or other form of legal entity. Any change in such status, at any time while service is being received, shall be promptly reported to the Director or Chief by the person receiving the service.

(b) *Notice of eligibility for service.* The applicant for service at any establishment will be notified whether his application is approved.

(c) *Request by applicant for service—(1) Noncommitment.* Upon notification of the approval on an application for service, the applicant may, from time to time as desired, make oral or written requests for service under the regulations with respect to specific products for which the service is to be furnished under such application. Such requests shall be made at an office for grading either directly or through any employee of the Agricultural Marketing Service who may be designated for such purposes.

(2) *Commitment.* If desired, the applicant may request to enter into an agreement with the Agricultural Marketing Service for the furnishing of service on a weekly commitment basis, whereby the applicant agrees to pay for 8 hours of service per day, 5 days per week, Monday through Friday, excluding Federal legal holidays occurring Monday through Friday on which no grading and certification services are performed, as provided in § 54.27(b), and the Agricultural Marketing Service agrees to make an official grader available to perform such service for the applicant. However, the Agricultural Marketing Service reserves the right to use any grader assigned to a plant under such a commitment to perform service for other applicants when, in

the opinion of the Chief, the grader is not needed to perform service for the commitment applicant. An applicant who terminates a commitment, and within 1 year after cancellation is granted a new commitment at his request, shall pay for the moving costs actually incurred by the Agricultural Marketing Service to cover the transfer of the grader who will service the applicant's new commitment. If more than one applicant is involved in the reapplication for a canceled meat grading and certification commitment requiring the transfer of the grader, the moving costs will be prorated among the applicants according to each applicant's committed portion of the grader's services. However, the moving costs will be charged only to those applicants who were parties to the previously canceled commitment. An applicant may, for periods of 3 months or less, enter into an agreement by memorandum with the Agricultural Marketing Service for the furnishing of service on a weekly basis. In the latter case, transfer of graders would not be involved and charges will be made in accordance with § 54.27.

[42 FR 53921, Oct. 4, 1977. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 44704, Oct. 12, 1982]

### § 54.7 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests therefor are received, insofar as consistent with good management, efficiency and economy. Precedence will be given, when necessary, to requests made by any government agency or any regular user of the service, and to requests for appeal service under § 54.20.

### § 54.8 When request for service deemed made.

A request for service under the regulations shall be deemed to be made when received by an office of grading. Records showing the date and time of the request shall be made and kept in such office. However, in the case of the Carcass Data Service, the purchase of official USDA eartags shall constitute a request for such service and the requisition form used to purchase the

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ear tags shall be kept in the designated office of record.

### § 54.9 Withdrawal of application or request for service.

An application or a request for service under the regulations may be withdrawn by the applicant at any time before the application is approved or prior to performance of service, upon payment, in accordance with §§ 54.27 and 54.28, of any expenses already incurred by the Agricultural Marketing Service in connection therewith.

### § 54.10 Authority of agent.

Proof of the authority of any person making an application or a request for service under the regulations on behalf of any other person may be required at the discretion of the Director or Chief or the official in charge of the office of grading or other employee receiving the application or request under § 54.6.

### § 54.11 Denial or withdrawal of service.

(a) *For misconduct*—(1) *Bases for denial or withdrawal.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency:

(i) Has wilfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under the regulations;

(ii) Has given or attempted to give, as a loan or for any other purpose, any money, favor, or other thing of value, to any employee of the Department authorized to perform any function under the regulations;

(iii) Has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee of the Department in the performance of his duties under the regulations by intimidation, threats, assaults, abuse, or any other improper means;

(iv) Has knowingly falsely made, issued, altered, forged, or counterfeited any official certificate, memorandum, mark, or other identification, or device for making any such mark or identification;

(v) Has knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device;

(vi) Has knowingly obtained or retained possession of any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device, or of any such official device, or of any product bearing any such falsely made, issued, altered, forged, or counterfeited mark or identification, or of any carcass or wholesale or retail cut bearing any designation specified in paragraph (a)(1)(vii) of this section which has not been federally graded or derived from a carcass graded as being of the indicated grade;

(vii) Has applied the designation “Prime,” “Choice,” “Select,” “Good,” “Standard,” “Commercial,” “Utility,” “Cutter,” “Canner,” “Cull,” “Medium,” “No. 1,” “No. 2,” “No. 3,” “No. 4,” “Yield Grade 1,” “Yield Grade 2,” “Yield Grade 3,” “Yield Grade 4,” or “Yield Grade 5” by stamp, or brand directly on any carcass, wholesale cut, or retail cut of any carcass, as part of a grade designation;

(viii) Has applied to immediate containers or shipping containers of carcasses, wholesale cuts, or retail cuts, grade designations specified in paragraph (a)(1)(vii) of this section, when such carcasses, wholesale cuts, or retail cuts contained therein have not been federally graded;

(ix) Has knowingly used, moved, or otherwise altered, in any manner, meat or meat products identified by an official product control device, mark, or other identification as specified in § 54.17, or has removed such official device, mark, or identification from the meat or meat products so identified without the express permission of an authorized representative of the USDA; or

(x) Has in any manner not specified in this paragraph violated subsection 203(h) of the AMA: *Provided*, That paragraph (a)(1)(vi) of this section shall not be deemed to be violated if the person in possession of any item mentioned therein notifies the Director or Chief without such delay that he has possession of such item and, in the case of an